

# ARS □ CSREES □ ERS □ NASS

## *Policies and Procedures*

***Title:*** Position Classification  
Appeals - GS/GM and FWS

***Number:*** 439.1

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National Services Branch

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***Distribution:*** All Employees

**This DIRECTIVE:**

- States policy and procedures and assigns responsibilities for classification appeals of GS/GM and FWS positions.
- Does not apply to positions in the Senior Executive Service or to positions classified above grade GS/GM-15.

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## 1. REFERENCES

For information on adverse actions, see DIRECTIVE 463.1.

For information on employee grievances, see DIRECTIVE 463.2.

For information on discrimination complaints processing, see DIRECTIVE 463.3.

## 2. ABBREVIATIONS

- FWS - Federal Wage System
- GM - Pay plan designator for positions in PMRS
- GS - General Schedule
- NSB - National Services Branch, PD
- OP - Office of Personnel, USDA
- OPM - U.S. Office of Personnel Management
- PD - Personnel Division, ARS
- PMRS - Performance Management and Recognition System
- POB - Personnel Operations Branch, PD

## 3. DEFINITION

**Classification Appeal** is a written request from an employee, or through a representative designated in writing, asking for a review of the classification of their current position.

## 4. AUTHORITIES

5 U.S.C.

Federal Personnel Manual Chapter 511 and Supplement 532-1

Department Personnel Manual Chapter 511

## 5. POLICY

It is ARS policy to:

- Classify positions accurately in accordance with OPM and USDA

classification policies, guides and standards.

- Provide advice and assistance to supervisors and employees on interpreting and applying such criteria and on filing classification appeals.

NOTE: An employee will be free from restraint, interference, coercion, or reprisal for filing an appeal.

## **6. WHO MAY APPEAL**

All GS/GM and FWS employees may personally, or through a designated representative, appeal the classification of their current position.

Employees are encouraged to discuss classification issues with their supervisor, Location Administrative Officer, Area Administrative Office, and/or PD, before appealing. These discussions will often answer questions, resolve issues, and prevent the filing of a formal appeal.

## **7. WHAT MAY BE APPEALED**

- GS/GM and FWS employee may appeal the following:
- The occupational series, position title (if not prescribed by OPM), and/or grade level of the current position.
- Inclusion in or exclusion from the GS.
- Inclusion in or exclusion from the FWS.

## **8. WHAT MAY NOT BE APPEALED**

The following issues are **not** covered by classification appeal procedures.

- Disagreements between the employee and the supervisor over the accuracy of the official position description, including the inclusion or exclusion of a major duty.

**NOTE:** An employee who considers their official position description to be

inaccurate should attempt to resolve the matter before appealing. If a disagreement cannot be resolved, any subsequent appeal will be decided on the basis of the actual duties assigned by management and performed by the employee.

- An assignment or detail out of the scope of the normally performed duties in the official position description.
- The accuracy, consistency, or use of Agency supplemental classification guides.
- The title of the position if it is prescribed by an OPM classification standard or guide, or the title reflects a qualification requirement or authorized area of specialization.
- Coverage of position under PMRS.
- The classification, grade, or pay system of a position to which the employee is not officially assigned by an official personnel action (e.g., an unofficial detail).
- An agency's proposed classification decision.
- The classification, grade, or pay system of a position to which the employee is detailed or temporarily promoted. However, employees serving under term promotions may appeal to OP.
- The classification of the employee's position based on position-to-position comparisons, rather than the official classification standards or guides published by OPM.
- The accuracy of grade level criteria contained in an OPM classification guide or standard.
- A classification appeal decision previously issued by OPM unless there has been a subsequent change in the governing classification standard(s) or the major duties of the position.
- The Agency position category designation.
- The propriety of the employee's wage schedule rate or rate of pay.

## **9. EMPLOYEE REPRESENTATIVE**

### **Choice of a Representative**

An employee may designate a representative of their choice to assist in the preparation and presentation of a classification appeal. The representative will be free from restraint, interference, coercion, or reprisal for performing representative duties.

A representative may be disallowed when the individual's activities would cause a conflict of interest or position, when the individual cannot be released from official duties because of the priority needs of the Government, or when the individual's release would give rise to unreasonable costs to the Government. The appellant's representative cannot be:

- A supervisor with line or staff authority over the position;
- Any Agency official having classification authority over the position; or
- Any official or other individual of the Agency whose position involves the performance of duties in the field of personnel management, and therefore has the potential for creating a conflict of interest situation.

### **Designation of Representative.**

The appellant must specify in writing the name, address, and business phone number of the representative, if one is selected, and a copy of this designation must be provided to the reviewing office (PD, OP, or OPM).

### **Duties of the Representative.**

A representative has the same obligation as the appellant to cooperate in processing the appeal. The representative should promptly relay instructions to the appellant and provide information promptly upon request by the reviewing office.

### **Participation in Fact-Finding.**

The selection of a representative does not convey a right for the representative to

be present during any fact-finding session conducted by the reviewing office. Although the representative may submit information which is significant to the classification of the position, the reviewing office is responsible for determining the best method for collecting facts about the duties, responsibilities, and qualification requirements of the appealed position.

## 10. OFFICIAL TIME

Employees and their representatives, if employees of USDA, are entitled to a reasonable amount of official time to develop and present an appeal, if otherwise in an active duty status. Arrangements for use of official time must be made with the appropriate supervisor(s). The amount of time allowed will depend on the facts and circumstances of each appeal. If more official time is required than was originally considered reasonable, the employee or the representative may request more time. The request must explain why more time is needed.

## 11. OVERVIEW OF EMPLOYEE OPTIONS IN THE APPEALS PROCESS

The hierarchy of personnel offices responsible for adjudicating appeals and providing support or advice on appeals is as follows:

- First Level - PD
- Second Level- OP
- Third Level - OPM

An employee may appeal to one level and request a **subsequent** appeal to a higher level. However, an employee may **not** appeal to a lower appellate level after a decision has been made at a higher level.

More specific information on filing a GS/GM classification appeal is included in Sections M and N and on filing a FWS classification appeal in Sections O and P.

TYPE OF POSITION	FIRST LEVEL (PD)	SECOND LEVEL (OP)	THIRD LEVEL (OPM)
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<b>GS/GM</b>	No right of appeal to PD.	Appeal directly to OP or through OP to OPM.	Appeal directly to OPM or after appealing to OP.
<b>FWS</b>	Appeal to PD.	No right of direct appeal to OP.	Appeal to OPM after appealing to PD.

## 12. OPTIONS AVAILABLE WHEN FILING A GS/GM CLASSIFICATION APPEAL

- File an appeal directly with OP. If dissatisfied with OP's decision, file a subsequent appeal with OPM.
- File an appeal with OPM **through** OP. This option allows OP 60 calendar days to issue an appellate decision. It should be noted that appeal cases involving research and experimental development will normally require more than 60 calendar days.

If OP's decision grants the appellant's request (or is otherwise favorable to the appellant), the necessary personnel action is taken and the appeal is closed. If OP's decision is unfavorable to the appellant, the appeal will be forwarded to OPM for final adjudication.

- File an appeal directly with OPM.

**NOTE:** If an employee files simultaneous classification appeals to both OP and to OPM, the appeal to OP will be canceled.

- The addresses for the Offices responsible for receiving and processing classification appeals are included in Exhibits 1 and 2.

## 13. WHEN TO FILE A GS/GM CLASSIFICATION APPEAL

When there has been **no** classification action resulting in actual loss of grade or pay, GS/GM employees may appeal the classification of their current positions to OP or OPM at any time. Employees are encouraged to, but do not have to, appeal to OP before going to OPM.

In those very few instances when there **has** been a classification action resulting in actual loss of grade or pay, employees **must file the appeal to either OP or OPM no later than 15 calendar days after the effective date of the personnel action** (in order to protect any rights to retroactive benefits). An appeal to OPM, after an initial appeal to OP, must be filed **no later than 15 calendar days after the appeal decision is received from OP** in order to protect retroactive benefits.

**NOTE:** Actual loss of grade or pay **does not** occur when an employee is entitled to grade/pay retention as a result of a classification action.

#### **14. WHERE TO FILE A FWS CLASSIFICATION APPEAL**

FWS employees **must** appeal to and receive a decision from PD **before** going to OPM for a classification appeal decision. All such appeals will be adjudicated within 60 calendar days following PD's receipt of all the case material listed below under Section 17 - PROCEDURE - GS/GM AND FWS.

FWS employees may **not** appeal directly to OP or through OP to OPM. However, if a decision is not rendered by PD within the 60 calendar-day period, an appellant may then request the Director, OP, to assume jurisdiction of the appeal case (this is the **only** circumstance in which OP will process an FWS classification appeal). This request must be in writing, signed and dated by the appellant or representative.

If dissatisfied with PD or OP's decision, FWS employees may file a subsequent appeal with OPM.

The addresses for the Offices responsible for receiving and processing classification appeals are included in Exhibits 1 and 2.

#### **15. WHEN TO FILE A FWS CLASSIFICATION APPEAL**

When there has been **no** classification action resulting in actual loss of grade or pay, FWS employees may appeal the classification of their position to PD at any time. If not satisfied with the PD decision, employees may then appeal to OPM, but **must do so within 15 calendar days of the date of receipt of the PD decision**.

In those very few instances when there **has** been a classification action resulting in actual loss of grade or pay, FWS employees **must file the appeal to PD within**

**15\_calendar days of the effective date of the personnel action** (in order to protect any rights to retroactive benefits). If not satisfied with the PD decision, employees may then appeal to OPM, but **must do so within 15 calendar days of the date of receipt of the PD decision**.

**NOTE:** Actual loss of grade or pay **does not** occur when an employee is entitled to grade/pay retention as a result of a classification action.

## **16. RESPONSIBILITIES**

### **POB-PD will:**

- Provide NSB-PD case material requested by the reviewing office, including a position evaluation report, if needed.
- Notify NSB-PD if changes are to be made to an employee's position under appeal, including the position description, pay plan, title, series, and/or grade.
- Notify NSB-PD if an employee leaves a position under appeal.

### **NSB-PD will:**

- Notify OP and/or OPM if changes are made to an employee's position under appeal, including the position description, pay plan, title, series, and/or grade.
- Notify OP and/or OPM in writing if an employee leaves a position under appeal.
- Provide OP and/or OPM all case material furnished by employee and/or requested by the particular reviewing office.
- For FWS appeals, issue a written appellate decision within 60 calendar days following receipt of all case material. Notify FWS employee in writing of decision, and if decision does not grant the employee's request or is otherwise unfavorable to the employee, advise employee of subsequent appeal rights to OPM and applicable time limits.
- Maintain ARS' official classification appeal files.

### **Supervisors will:**

- Grant employee or employee representative a reasonable amount of official time to present their case, if they are otherwise in an active-duty status.
- Submit additional information requested by the reviewing office in a timely manner.

## 17. PROCEDURE - GS/GM AND FWS

### Employee:

- Directly or through a representative selected and designated in writing by the employee, submit a signed and dated letter addressed according to Exhibits 1 and/or 2 and include the following:
  - Employee name, home mailing address, and office telephone number.
  - Name and mailing address of the employing Department and Agency.
  - Exact location of the employee's position within the Agency (e.g., Headquarters, Division/Staff/Office, Branch, Section, Unit; or Area, Field Organization, Center/Laboratory/Location, Unit).
  - Employee's current position title, pay plan, occupational series, and grade.
  - Requested position title, pay plan, occupational series, and grade.
  - A copy of the official position description, along with a statement concerning its accuracy. If the employee believes the position description is not accurate, the employee must provide a description of the work currently being performed and show what steps have been taken to have the official description changed.
  - Reasons to believe the position is erroneously classified. The employee should refer to position classification standards which support the appeal and should state specific points of disagreement with the Agency's evaluation statement.

**NOTE:** Classification standards can be obtained from servicing Position Classification Specialists in PD and may be available in the Area and/or Location Administrative Offices.

- Name, address, and business telephone number of the employee's representative, if any.
- Expedite appeal by furnishing any additional information requested by the reviewing office (PD, OP, or OPM).

## **18. DECISION**

If the decision by PD, OP, or OPM does not grant the employee's request, or is otherwise unfavorable to the employee, notification will be sent to the employee and will include:

- Reasons for sustaining the classification determination.
- Rights, procedures, and time limits for filing a further appeal.

If the decision grants the employee's request, or is otherwise in the employee's favor, notification will be sent to the employee and will include:

- Reasons for granting the decision.
- Corrective personnel action to be taken.

## **19. CANCELLATION OF APPEAL**

- A classification appeal will be canceled upon:
- Receipt by PD, OP, or OPM (as appropriate) of employee's written request to cancel.
- Employee's failure to furnish requested information within a reasonable timeframe, as specified by letter to the employee.
- Written notification from PD to the reviewing office that the employee has left the position and no possibility of retroactive benefits exists.

## **20. EFFECTIVE DATE FOR APPEAL DECISIONS**

Appeal decisions are binding on all offices, and:

- When there was **no** classification action resulting in actual loss of grade or pay, the appeal decision will be implemented no earlier than the date of the decision (as indicated on the classification evaluation statement) or no later than the beginning of the fourth pay period following the date of the decision, unless a later date is specified in the text of the decision.
- When there **was** a classification action that resulted in actual loss of grade or pay, the appeal decision will be implemented retroactively to the effective date of the classification action when **all** of the following conditions are met:
  - The appeal decision reverses, in whole or in part, a classification action which changed the position to a lower grade or resulted in a loss of pay.
  - The classification appeal decision finds that the classification action resulting in wrongful demotion was based on a classification error.
  - The appeal decision is based on duties and responsibilities assigned and performed at the time the wrongful demotion occurred and not on duties and responsibilities assigned later.
  - The initial appeal, whether to PD, OP or to OPM, and any subsequent appeals were filed on a timely basis.
  - The employee is **not** eligible for retained grade or pay.

T. J. CLARK  
Deputy Administrator  
Administrative Management

Exhibits

- 1 How to Address Classification Appeals
- 2 Addresses of OPM Classification Appeals Offices

EXHIBIT 1            HOW TO ADDRESS CLASSIFICATION APPEALS

1.    Address for appeal action of **FWS employee**:

To: Director, Personnel Division  
Agricultural Research Service  
6303 Ivy Lane, Room 820  
Greenbelt, MD 20770-1433

2.    Address for appeal action if **GS/GM employee** chooses to appeal to OP:

To: Employee Appeals Staff  
Office of Personnel  
U.S. Department of Agriculture  
Washington, DC 20250

3.    Address for appeal action if **GS/GM employee** chooses to appeal to OPM **through** OP:

To: Office of Personnel Management

(See Exhibit 2 for remainder of address, depending on geographic location of position under appeal.)

Through: Employee Appeals Staff  
Office of Personnel  
U.S. Department of Agriculture  
Washington, DC 20250

4.    Address for appeal action when FWS or GS/GM employee appeals to OPM:

To: Office of Personnel Management

(See Exhibit 2 for remainder of address, depending on geographic location of position under appeal.)

## EXHIBIT 2 ADDRESSES OF OPM CLASSIFICATION APPEALS OFFICES

Location of Position	Address Appeal to:
Washington, DC, the Washington, DC Metropolitan Area of Maryland and Virginia, and overseas areas <b>except</b> the Pacific Ocean Area	Office of Personnel Management Classification Appeals Office 1900 E Street, NW Washington, DC 20415
Alabama, Florida, Georgia Mississippi, North Carolina South Carolina, Tennessee, and Virginia ( <u>except</u> locations within the Washington, DC Metropolitan Area)	OPM Atlanta Region 75 Spring Street, SW Atlanta, GA 30303
Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, West Virginia, and Wisconsin	OPM Chicago Region 230 S. Dearborn Street Chicago, IL 60604
Arizona, Arkansas, Colorado, Louisiana, Montana, New Mexico, Oklahoma, Texas, Utah, and Wyoming	OPM Dallas Region 1100 Commerce Street Dallas, TX 75242
Connecticut, Delaware, Maine, Maryland ( <b>except</b> locations within the Washington, DC Metropolitan Area), Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands	OPM Philadelphia Region 600 Arch Street Philadelphia, PA 19106
Alaska, California, Hawaii, Idaho, Nevada, Oregon, the Pacific Ocean Area, Washington	OPM San Francisco Region 211 Main Street, 7th Floor San Francisco, CA 94105